

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 3503-06
Bill No.: Truly Agreed to and Finally Passed SS for SCS for HCS for HB 1403
Subject: Contracts - Contractors; Architects; Engineers; Property, Real and Personal
Type: Original
Date: May 22, 2002

FISCAL SUMMARY

ESTIMATED NET EFFECT ON STATE FUNDS			
FUND AFFECTED	FY 2003	FY 2004	FY 2005
None			
Total Estimated Net Effect on <u>All</u> State Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2003	FY 2004	FY 2005
None			
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2003	FY 2004	FY 2005
Local Government	\$0	\$0	\$0

Numbers within parentheses: () indicate costs or losses.
This fiscal note contains 3 pages.

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Office of Administration - Division of Design and Construction, Department of Transportation, Department of Conservation, Department of Labor and Industrial Relations**, and the **Office of the State Courts Administrator** assume the proposed legislation would have no fiscal impact on their agencies.

<u>FISCAL IMPACT - State Government</u>	FY 2003 (10 Mo.)	FY 2004	FY 2005
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

<u>FISCAL IMPACT - Local Government</u>	FY 2003 (10 Mo.)	FY 2004	FY 2005
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

FISCAL IMPACT - Small Business

This proposal would have direct fiscal impact on small businesses operating as contractors or subcontractors, or small businesses utilizing contractors.

DESCRIPTION

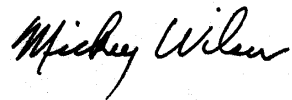
This proposal allows owners in private building contracts to retain a portion of payment due to a contractor in order to ensure the proper performance of the contract. The proposal limits retainage to 10% of the contract. The contractor may give the owner a substitute security and demand payment of the retainage. Subcontractors may do the same with contractors. The proposal sets forth the types of securities that will satisfy the requirement, including certificates of deposit, retainage bonds, and unconditional letters of credit. Contractors are entitled to any income earned from the securities while deposited with the owner. Contractors may not withhold extra retainage from a subcontractor, unless the subcontractor's performance is not in accordance with the terms of the subcontract. Contractors must pass along to any subcontractors the retainage they are paid on a pro rata basis. Subcontractors may be released prior to completion of the entire project, and contractors may request DESCRIPTION (continued)

an adjustment in retainage necessary to pay these subcontractors in full. Within 30 days of the substantial completion of the project, all retainage or substitute security must be released by the owner to the contractor, less 150% of the costs to complete any remaining items. Upon receipt of this retainage, contractors must release the subcontractor's share of the retainage within seven days. Construction contracts will be unenforceable to the extent that they are inconsistent with the requirements of the proposal. If retainage is withheld wrongfully, a court may award interest on the amount at 1 1/2% per month plus attorney's fees. Contracts for the construction of single-family residential and residential buildings with four or fewer units are exempt from the proposal.

This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

Office of Administration - Division of Design and Construction
Department of Transportation
Department of Conservation
Department of Labor and Industrial Relations
Office of the State Courts Administrator



Mickey Wilson, CPA
Acting Director

May 22, 2002